

# House File 757 - Introduced

HOUSE FILE \_\_\_\_\_  
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO HF 99)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the publication of certain false statements of  
2 fact concerning candidates and providing remedies.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
4 TLSB 1518HV 82  
5 jr/je/5

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1 1 Section 1. NEW SECTION. 68A.407 PUBLICATION OF CERTAIN  
1 2 FALSE STATEMENTS OF FACT CONCERNING CANDIDATE PROHIBITED ==  
1 3 REMEDIES.  
1 4 1. The general assembly finds that the increasing use of  
1 5 false statements of fact aimed at candidates for public office  
1 6 impedes campaigns and diminishes the trust and confidence of  
1 7 the public in the electoral process. It is not the intent of  
1 8 the general assembly to lessen political debate that furthers  
1 9 the ability of the public to understand the issues and  
1 10 positions of candidates for public office. The general  
1 11 assembly declares that a compelling state interest exists for  
1 12 prohibiting the use of false statements of fact that impedes  
1 13 campaigns for public office in this state and diminishes the  
1 14 public's trust and confidence in the electoral process.  
1 15 2. As used in this section:  
1 16 a. "Actual malice" means knowledge of the falsity of a  
1 17 statement or reckless disregard for whether a statement is  
1 18 true or false.  
1 19 b. "Beneficiary candidate" means a candidate for public  
1 20 office who would benefit from materials published as provided  
1 21 in paragraph "d".  
1 22 c. "Public office" means any state, county, city, school,  
1 23 or other office of a political subdivision of this state  
1 24 filled by election.  
1 25 d. "Publish" means any dissemination in print, radio,  
1 26 televised, telephonic, or photographic medium or by electronic  
1 27 communication in any form.  
1 28 3. A candidate, candidate's committee, or political party  
1 29 shall not, with actual malice, cause to be published a false  
1 30 statement of fact concerning a candidate for public office  
1 31 involving any of the following:  
1 32 a. The education or training of the candidate.  
1 33 b. The current profession or occupation of the candidate.  
1 34 c. Whether the candidate committed, was indicted for  
1 35 committing, or was convicted of committing a crime punishable  
2 1 by law.  
2 2 d. Whether the candidate was subject to discipline or  
2 3 sanction by any body of the federal government, this state, or  
2 4 political subdivision of this state.  
2 5 e. Whether the candidate has received treatment for a  
2 6 mental illness.  
2 7 f. Whether another person endorses or opposes the  
2 8 candidate's election.  
2 9 g. The record of voting of the candidate if the candidate  
2 10 serves or formerly served in elective office. A record of  
2 11 voting is deemed to be a false statement of fact unless the  
2 12 published material that refers to the prior vote cast by a  
2 13 candidate regarding an issue discloses all of the following:  
2 14 (1) The total votes cast both for and against that issue.  
2 15 (2) The total votes cast by members of each political  
2 16 party regarding that issue when applicable.  
2 17 h. The voter registration or voting history of the  
2 18 candidate.

2 19 4. A political party shall not publish campaign material  
2 20 without first disclosing to the beneficiary candidate the  
2 21 nature and content of the campaign material. Campaign  
2 22 materials published by a political party shall include a  
2 23 statement that the material was approved or was not approved  
2 24 by the beneficiary candidate.

2 25 5. A candidate for public office who alleges that a false  
2 26 statement of fact concerning the candidate has been published  
2 27 in violation of this section may file a complaint with the  
2 28 board. The board shall give priority consideration to a  
2 29 complaint filed under this section over all other matters  
2 30 pending before the board.

2 31 6. If the board determines that a violation did occur, the  
2 32 board may impose any of the recommended actions under section  
2 33 68B.32D, except that the board shall not refer a complaint or  
2 34 supporting information alleging a violation of this section to  
2 35 the attorney general or any county attorney for prosecution.

3 1 7. This section shall not preclude the filing of a civil  
3 2 action based on the same facts or event giving rise to a  
3 3 complaint filed with the board under this section.

3 4 8. Section 68A.701, which otherwise applies criminal  
3 5 penalties to violations of this chapter, shall not apply to  
3 6 violations of this section.

3 7 9. The provisions of this section and the application of  
3 8 the provisions are severable as provided in section 4.12.

3 9 EXPLANATION

3 10 This bill creates new Code section 68A.407 that prohibits  
3 11 the distribution of false statements of fact, made with actual  
3 12 malice, against a candidate for public office. Actual malice  
3 13 is defined as either actual knowledge that the statement is  
3 14 false or a reckless disregard whether the statement is true or  
3 15 false.

3 16 The bill outlines seven areas where false statements are  
3 17 prohibited; they involve such things as the education or  
3 18 occupation of the candidate, the criminal or disciplinary  
3 19 history of the candidate, the mental health of the candidate,  
3 20 the voting record or history of the candidate, or endorsements  
3 21 by other persons.

3 22 The bill also prohibits a political party from publishing  
3 23 campaign material without first advising the candidate. All  
3 24 campaign material published by a political party must state  
3 25 whether the material has been approved by the candidate.

3 26 Any candidate may file a complaint with the ethics and  
3 27 campaign disclosure board. If the board determines that a  
3 28 violation did occur, the board may impose any of the sanctions  
3 29 and remedial actions under Code section 68B.32D. These  
3 30 include a civil penalty of not more than \$2,000 for each  
3 31 violation. No criminal penalty applies to a violation of the  
3 32 bill's provisions.

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